

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

20-CR-195

DAVID RUBEL,

Defendant.

NOTICE OF MOTION AND MOTION

THE UNITED STATES OF AMERICA, by and through its attorney, Trini E. Ross, United States Attorney for the Western District of New York, Laura A. Higgins, Assistant United States Attorney, hereby moves the Court for an extension of the deadline for the defendant to file his pretrial omnibus motions set for January 31, 2022 for the reasons set forth in the attached affidavit.

DATED: Buffalo, New York, February 3, 2022.

TRINI E. ROSS
United States Attorney

BY: s/LAURA A. HIGGINS
Assistant United States Attorney
United States Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
716/843-5862
Laura.Higgins@usdoj.gov

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UNITED STATES OF AMERICA,

v.

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DAVID RUBEL,

Defendant.

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

LAURA A. HIGGINS, being duly sworn, deposes and states:

1. I am an Assistant United States Attorney for the Western District of New York and assigned to my office's file regarding this action. This affidavit is submitted in support of the government's motion for an extension of the deadline for the defendant to file his pretrial omnibus motions set for January 31, 2022.

2. The parties are requesting that the deadline for the defendant's pretrial omnibus motions be extended beyond February 22, 2022 to allow the defendant to enter a plea on February 22, 2022 as scheduled before the Honorable John L. Sinatra, Jr. The change of plea hearing originally scheduled for January 28, 2022 was rescheduled. Counsel for defendant, Herbert Greenman, Esq. stated to your affiant that the defendant joins in the request for the adjournment and in the exclusion of time pursuant to the Speedy Trial Act.

3. Since the parties have agreed to the terms of a pre-indictment resolution of this matter and the matter is scheduled for a change of plea hearing on February 22, 2022, speedy trial time in this matter should be excluded to afford time for the change of plea hearing to be conducted. The public's interest in conserving resources by avoiding the unnecessary use of the grand jury, the time and expense of both a trial and a likely appeal, combined with the certainty of conviction that will be obtained through a plea of guilty by the defendant, outweigh the public's interests in a speedy trial. Furthermore, the defendant's interest in obtaining the benefit of a lesser sentence which will likely accompany the pretrial disposition of this matter outweigh the interests of the defendant in a speedy trial. Based on the foregoing representations, the exclusion of time in this matter is in the interest of justice and not contrary to the interests of the public and the defendant in a speedy trial pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (h)(7)(B)(iv).

WHEREFORE, it is respectfully requested that the deadline for the defendant to file his pretrial omnibus motions be set for a date beyond February 22, 2022, and that the time from and including February 3, 2022, to and including the new date for the defendant to file motions, be excluded from the Speedy Trial Act.

s/LAURA A. HIGGINS
Assistant United States Attorney
United States Attorney's Office
Western District of New York
138 Delaware Avenue
Buffalo, New York 14202
716/843-5862

Subscribed and sworn to before me

this 3RD day of February, 2022.

s/JESSICA A. OLSZEWSKI
COMMISSIONER OF DEEDS
In and for the City of Buffalo, New York.
My Commission Expires Dec. 31, 2022.